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Message Text

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E.O. 11652: N/A

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SUBJECT: EAST-WEST TRADE - GAO REVIEW

REF: STATE 163239

IN ORDER TO COMPLETE DEPARTMENT'S WORK IN PREPARING RESPONSE TO GAO REGARDING THEIR STUDY OF EAST-WEST TRADE, EMBASSIES ARE REQUESTED TO MAKE INFORMAL RPT INFORMAL APPROACH TO APPROPRIATE OFFICIALS IN HMG AND FRG, RESPECTIVELY, TO OBTAIN ANSWERS TO FOLLOWING QUESTIONS RELATING TO EXPORT CONTROL REGULATIONS OF THE UK AND FRG. SINCE GAO HAS REQUESTED THIS INFORMATION BY OCT. 25, DEPARTMENT WOULD APPRECIATE EMBASSIES' RESPONSE BEFORE THAT DATE.

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1. WHAT IS THE DECISION MAKING PROCESS RELATING TO THE

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MONITORING AND ENFORCEMENT OF COCOM REGULATIONS IN SPECIFIC TRANSACTIONS?

2. WHAT TYPES OF CRITERIA ARE USED FOR SELECTING EAST-WEST TRANSACTIONS TO MONITOR AND REGULATE?

3. HOW MANY COMPLIANCE CASES HAVE ARISEN FROM ENFORCEMENT OF COCOM REGULATIONS THIS YEAR, LAST YEAR, ETC., AND HOW DOES THE NUMBER OF THESE CASES RELATE TO: INTERNAL BUDGETING, THE LIBERALIZATION OF E-W TRADE, AND THE ESTIMATED VOLUME OF NON-COMPLIANCE ACTIVITY?

4. WHAT KIND OF COORDINATION EXISTS BETWEEN AGENCIES RESPONSIBLE FOR MONITORING AND REGULATING E-W TRADE AND AGENCIES RESPONSIBLE FOR PROMOTING IT? WHICH HAVE PRIORITY?

5. UNDER WHAT LEGAL AUTHORITY DOES THE AGENCY RECEIVE INFORMATION FROM PRIVATE FIRMS CONCERNING THEIR ACTIVITIES IN EASTERN COUNTRIES?

6. ARE DIFFERENT STANDARDS OF EXPORT CONTROL APPLIED TO USSR, EE, OR PRC, OR TO FOREIGN-OWNED CORPORATIONS?

7. WHAT IS THE RATIONALE FOR MONITORING TRADE WITH COMMUNIST COUNTRIES AND HOW IS IT RELATED TO MONITORING AND CONTROL ACTIVITIES?

8. WHAT TYPE OF INFORMATION DOES THE AGENCY RECEIVE FROM PRIVATE FIRMS CONCERNING TRADE WITH BLOC COUNTRIES FOR MONITORING OR ENFORCEMENT PURPOSES?

9. ARE RESIDENT FIRMS REQUIRED TO GET EXPORT LICENSES BEFORE OR AFTER THE FORMAL SUBMISSION OF SALES PROPOSALS CONCERNING REGULATED ITEMS?

10. IS THERE MONITORING OF TECHNOLOGY AND SCIENTIFIC AGREEMENTS BETWEEN PRIVATE FIRMS AND CENTRALLY PLANNED ECONOMIES?

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11. HOW DOES THE AGENCY MONITOR AND ENFORCE TECHNOLOGY TRANSFERS?

12. WHAT IS THE ROLE OF THE AGENCY IN ENFORCING LICENSE APPLICATIONS FOR REEXPORT OF US ORIGIN COMPONENTS IN NATIONAL PRODUCTS?

13. HOW DOES THE AGENCY DETERMINE WHICH COMMODITIES ARE

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SUBJECT TO US EXPORT LICENSING?

14. HOW ARE REGULATIONS INTERPRETED, AND BY WHOM, TO DETERMINE WHICH COMMODITIES ARE SUBJECT TO COCOM REGULATIONS?

OF THE ABOVE QUESTIONS, RESPONSES NEEDED PARTICULARLY ON NUMBERS 3, 4, 5, 8, 10, 11, 12.

DEPARTMENT HAS DRAFTED RESPONSES TO SEVERAL OF ABOVE QUESTIONS AS SET FORTH BELOW AND WOULD APPRECIATE EMBASSIES COMMENTS ON THEM.

1. THE UK AND WEST GERMAN GOVERNMENTS HAVE SYSTEMS SIMILAR TO THE US IN THAT AN APPLICANT FOR A LICENSE TO EXPORT FROM EITHER COUNTRY MUST APPLY TO THE DEPARTMENT OF TRADE AND INDUSTRY (UK) AND BUNDESANT FUER GEWERBLICHE WIRTSCHAFT (WEST GERMANY); THE WEST GERMAN DEPARTMENT IS AN AGENCY OF THE MINISTRY OF ECONOMIC AFFAIRS. IF CONSIDERED TO WARRANT POSSIBLE APPROVAL, SUCH APPLICATIONS ARE THEN CONSIDERED BY THE PARTICIPATING COUNTRIES' DELEGATES IN PARIS TO OBTAIN AGREEMENT FOR THE PROPOSED EXPORT. IF APPROVAL IS RECEIVED, A LICENSE IS ISSUED. THE ENFORCEMENT IN THE UK RESTS WITH THE BRITISH CUSTOMS AND EXCISE SERVICE, AND IN WEST GERMANY WITH THE CUSTOMS AUTHORITIES.

2. THE LIST OF COCOM EMBARGOED ITEMS IS USED AS A CRITERION TO DETERMINE THE ITEMS SUBJECT TO MONITORING. END USE AND ULTIMATE DESTINATION ARE ALSO CRITERIA FOR SELECTING EAST-WEST TRANSACTIONS FOR MONITORING AND REGULATING.

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6. DIFFERENT STANDARDS OF EXPORT CONTROL ARE NOT APPLIED TO FOREIGN-OWNED CORPORATIONS; THE REGULATIONS APPLY TO ALL FIRMS LOCATED IN HMG OR FRG IRRESPECTIVE OF OWNERSHIP OR FOREIGN CONTROL. INSOFAR AS WE KNOW, THE STANDARDS OF CONTROL ARE THE SAME FOR THE USSR, EASTERN EUROPE, AND THE PRC.

7. IT IS PRESUMED THAT THE UK AND WEST GERMANY HAVE THE SAME RATIONALE AS THE US -- TO DENY STRATEGIC EXPORTS TO THE USSR, EASTERN EUROPE, AND THE PRC IN ACCORDANCE WITH COCOM ARRANGEMENTS. THE OBJECTIVE IS TO PREVENT CONTRIBUTING TO THE MILITARY POTENTIAL OF COMMUNIST COUNTRIES AND TO PRESERVE A LEAD IN TECHNOLOGY AND EQUIPMENT OF MILITARY SIGNIFICANCE.

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13. THESE ITEMS ARE CONTAINED IN THE US EXPORT ADMINISTRATION REGULATIONS, COPIES OF WHICH ARE AVAILABLE AT THE US EMBASSIES AND CONSULATES ABROAD. SUCH LIST INCLUDES BOTH COCOM AND US UNILATERALLY CONTROLLED ITEMS.

14. THE UK AND WEST GERMANY EACH PUBLISH A LIST OF ITEMS WHICH ARE UNDER COCOM EMBARGO. THESE INDIVIDUAL LISTS ARE BASED ON THE COCOM INTERNATIONAL LIST WHICH HAS BEEN DEVELOPED BY THE CONSENSUS OF ALL THE PCS AT THE PERIODIC LIST REVIEW MEETINGS WHERE ITEMS MAY BE REMOVED OR ADDED, DEPENDING UPON THE COMBINED SECURITY JUDGMENTS OF THE COCOM COUNTRIES. KISSINGER

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